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10/073,370	02/05/2002	Cathleen Woodall	2858	4346

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EXAMINER

HO, THOMAS Y

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/073,370

Applicant(s)

WOODALL ET AL.

Examiner

Thomas Y Ho

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- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 23 May 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

(I) Claims 1-2 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hutchison USPN2156629 in view of Grinnell USPN5297848.

As to claims 1-2 and 8-10, Hutchison discloses:

- A pair of generally flat pads 10/11 for supporting a user's buttocks.
- Said arms 15/16 are recessed from a top of each of the pads 10/11 for enabling the user's coccyx to depend between the pads in order to prevent pressure on the coccyx.
- Said arms 15/16 have a thickness smaller than a thickness of the pads 10/11 and are disposed between the pads for enabling the user's coccyx to depend between the pads in order to prevent pressure on the coccyx.

Grinnell discloses the following not disclosed by Hutchison:

- A hinged handle 80 disposed between the pads 10/40 for carrying said seat cushion (alternatively, the hinged handle can be handle 90).
- A single hinged handle 80 or 90 disposed between the pads 10/40 for carrying said seat cushion.
- Said hinged handle 80 or 90 have a thickness smaller than a thickness of the pads 10/40 and are disposed between the pads.

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Hutchison in view of Grinnell discloses:

- Spaced apart arms, extending from the pads and said hinged handle, for holding the pads and handle in a spaced apart relationship and enabling grasping of said hinged handle by the user, said arms being flexible for enabling the pads to be oriented in both a planar relationship for supporting the user's buttocks and a parallel plane relationship for enabling transport of said seat cushion by the handle. The modification of Hutchison with Grinnell would place the strap 80 or handle 90 on the attachment portion 70 between the pads 10/40 of Grinnell onto the attachment portion 15/16 which are spaced apart arms between the pads 10/11 of Hutchison. It should be noted that the strap 80 or handle 90 is spaced apart from the pads 10/40 by the attachment portion 70 of Grinnell.
- Said hinged handle is recessed from the top of each of the pads for enabling the user's coccyx to depend between the pads in order to prevent pressure on the coccyx. Though the handle 80/90 of Grinnell is not recessed from the pads (Fig.4), the teaching of Grinnell to modify Hutchison would place the handles on the attachment portions 15/16 of Hutchison, which are recessed, thus making any mounted handle also recessed.
- The handle, arms, and pads each have a bottom surface disposed in a single plane with the pads oriented for supporting the user's buttocks. The modification of Hutchison in view of Grinnell would place the handle 90 or strap 80 of Grinnell on the attachment portion 15/16 of Hutchison, and so the handle, arms, and pads would

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all have a bottom surface in a single plane, because the handles 15/16 of Hutchison are in a single plane with the bottom of the pads 10/11 of Hutchison.

Grinnell discloses the use of handles 80/90 for carrying the apparatus by hand or slung over a shoulder (col.4, ln.40-55). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the attachment strips 15/16 of Hutchison to have handles attached to opposite ends of the attachment strip, as taught by Grinnell, to enable hand carrying of the apparatus in a folded position, or slung over a shoulder.

(II) Claims 3-6 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hutchison USPN2156629 in view of Grinnell USPN5297848, and further in view of Sweeney USPN4031578.

As to claims 3-6 and 11-14, Hutchison in view of Grinnell discloses:

- The limitations claimed in paragraph (I) above.
- Said arms include forearms and aftarms each joined to opposite ends of said hinged handle.
- Each of the pads include an arcuate forward perimeter, the forward perimeters being joined by the forearms.
- Each of the pads include an arcuate rearward perimeter, the rearward perimeter being joined by the aftarms.

Sweeney discloses the following not disclosed by Hutchison in view of Grinnell:

- The whole assembly is integrally molded.

Sweeney discloses that it is desirable and preferable in instances to utilize a mold to form a padding assembly of unitary construction (col.4, ln.59-65). It would have been obvious to one

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of ordinary skill in the art at the time the invention was made to modify the assembly disclosed by Hutchison to be molded so it is of unitary construction. The molding of various components is old and well known in the art. Also, the term "integral" does not require a unitary one-piece structure. In re Kohno, 391 F.2d 959, 157 USPQ 275 (CCPA 1968); In re Larson, 340 F.2d 965, 144 USPQ 347 (CCPA 1965). Similarly, one-piece construction, in place of separate elements fastened together, is a design consideration within the skill of the art. In re Kohno, 391 F.2d 959, 157 USPQ 275 (CCPA 1968); In re Larson, 340 F.2d 965, 144 USPQ 347 (CCPA 1965).

(III) Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hutchison USPN2156629 in view of Grinnell USPN5297848, and further in view of Skibik USPN5611098.

As to claim 7, Hutchison in view of Grinnell discloses:

- The limitations as claimed in paragraph (I) above.

Skibik discloses the following not disclosed by Hutchison in view of Grinnell:

- Means 26/27 for releasably holding the pads 12/13 in the parallel planar relationship.

Skibik discloses a closure strap 26/27 for securing cover member in a closed condition. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pads disclosed by Hutchison to have a means for releasably holding, a taught by Skibik, to hold the pads in closed condition.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

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*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

USPN3629901 to Wolf discloses a molded one-piece hinge.

USPN4345345 to Holtz discloses a head support.

USPN4643481 to Saloff discloses a seat system or buttocks pad.

USPN4871209 to Handelman discloses a folding stadium seat.

USPN4925064 to Comora discloses a backpack cushioning device.

USPN4925241 to Geraci discloses a cushion for sporting events.

USPN5544377 to Gostine discloses a therapeutic pillow.

USPN6142573 to Harding discloses a cushion element for use in a wheelchair.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Y Ho whose telephone number is (703)305-4556. The examiner can normally be reached on M-F 10:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J Swann can be reached on (703)306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9326 for regular communications and (703)872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-1113.


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TYH

July 11, 2003

  
J. J. SWANN  
SUPERVISORY PATENT EXAMINER  
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